

From: [Marquez, Lillian](#)
To: [Zimmerman, Tobias \(Law\)](#); [AG-NYPDLitigation](#); [Payne Litigation Team](#); [Sow-Legal@blhny.com](#); [rolonlegalteam@aboushi.com](#); [Gray Legal Team-External](#); [NYC Law Protest Team](#)
Cc: [Olney, Michael \(LAW\)](#); [Nelson, Genevieve \(Law\)](#)
Subject: RE: [EXTERNAL] M&C re Argus/Aviation
Date: Thursday, March 23, 2023 4:15:24 PM

Ok – thanks for the clarifications. We'll discuss and get back to you, hopefully early next week.

Lillian

From: Zimmerman, Tobias (Law) <tzimmerm@law.nyc.gov>
Sent: Thursday, March 23, 2023 3:42 PM
To: Marquez, Lillian <Lillian.Marquez@ag.ny.gov>; AG-NYPDLitigation <AG.NYPDLitigation@ag.ny.gov>; Payne Litigation Team <PayneLitigationTeam@nyclu.org>; Sow-Legal@blhny.com; rolonlegalteam@aboushi.com; Gray Legal Team-External <GrayLegalTeam@dwt.com>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>
Cc: Olney, Michael (LAW) <molney@law.nyc.gov>; Nelson, Genevieve (Law) <gnelson@law.nyc.gov>
Subject: RE: [EXTERNAL] M&C re Argus/Aviation

Lillian & Remy-

Thank you for taking the time to meet and confer with us today on the video issue. I want to follow-up to clarify a point that we may or may not have misheard during the call.

To the extent that it was suggested that testimony is given under Rule 31 without counsel for the witness present, that is not the way we read the rule. We would expect to have an attorney present to interpose objections during the testimony.

Also, since none of us were well-versed in Rule 31 at the time we spoke, I have since gone back and re-examined it and want to make clear that Rule 31 requires that the questions be served on the answering party in advance of the deposition. FRCP 31(a)(3). This is in direct contrast to Rule 30(c)(3), which requires that written questions interposed during an *oral* deposition must be delivered to the court reporter in a “sealed envelope”.

As we discussed, both sides need to examine this issue further, but we believe that the proposed method—deposition on written questions that we can review and use to prepare the witness(es)—offers an efficient means of resolving outstanding disputes in this area of discovery.

Thank you
Tobias

-----Original Appointment-----

From: Marquez, Lillian <Lillian.Marquez@ag.ny.gov>

Sent: Monday, March 20, 2023 12:45 PM

To: Marquez, Lillian; AG-NYPDLitigation; Payne Litigation Team; Sow-Legal@blhny.com; rolonlegalteam@aboushi.com; Gray Legal Team-External; NYC Law Protest Team; Zimmerman, Tobias (Law)

Subject: [EXTERNAL] M&C re Argus/Aviation

When: Thursday, March 23, 2023 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Microsoft Teams Meeting

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